

Durham County District Attorney's Office



**July 2019
Progress Report**

A Message from the District Attorney

It has officially been six months since I took office as your Durham County District Attorney. You elected me, as so many voters around the country have elected new prosecutors in recent months and years, with a desire to see a justice system that does not criminalize poverty, that takes a common sense approach to minor offenses, and that values the safety of all people.

While fundamentally changing the way Durham's criminal justice system operates will take collaboration from all corners of our community, I'm pleased to report that the District Attorney's Office has taken steps to address mass incarceration, jail overcrowding, racial disparities in the criminal justice system, and mistrust of the courts.

In these pages, you will read about our efforts to avoid unnecessary criminal justice involvement, prioritize serious crimes in which harm was done to a member of our community, and be more transparent and engaged as a public office.

Among the highlights in this report, the DA's Office has:



- ◆ Implemented an internal pretrial release policy that disfavors pretrial detention and removes money from the equation to the extent possible under North Carolina law, contributing to a more than 12 percent decline in the jail population, a shorter average length of stay, and savings for Durham taxpayers.
- ◆ Continued to assign an attorney to all first appearances at the jail, assuring bail is reviewed quickly.
- ◆ Continued regular meetings with the Sheriff's Office and other officials to identify individuals being held on bonds of \$10,000 or less and determine at an early stage whether to recommend their release.
- ◆ Reorganized the Office into six new teams so that each case is handled by attorneys, legal assistants and victim service coordinators who specialize in that subject matter.
- ◆ Resolved 22 homicide cases, an increase from the same time period in 2018.
- ◆ Established a practice that law enforcement consult the Office before filing homicide charges to ensure people are not charged where there is insufficient evidence of guilt and that cases do not linger in the court system.
- ◆ Met monthly with Durham police to review the results of sexual assault evidence kit testing in an effort to bring closure to cases that have been unresolved sometimes for years.
- ◆ Waived unpaid traffic fines and fees for 2,118 people who lost their licenses at least two years ago, putting them one step closer to becoming legal drivers again.
- ◆ Held monthly staff trainings to ensure the work of the DA's Office is being conducted in an equitable, ethical manner.

A Message from the District Attorney

- ♦ Expanded the use of restorative justice practices, which bring victims and defendants together outside of court to promote healing and accountability rather than punishment.
- ♦ Created a juvenile team to handle all cases involving individuals 18 and under — and in some cases in their early 20s.
- ♦ Stopped accepting court referrals for school-based incidents, with rare exceptions for serious crimes.
- ♦ Ended the practice of threatening criminal charges against the parents of students who miss school.
- ♦ Created positions for a deputy chief of legal and community affairs and a communication specialist to promote transparency, accountability, and relationship building between the public and the justice system.
- ♦ Approved 104 applications for U-Visas.
- ♦ Created a committee to uphold constitutional obligations to disclose evidence favorable to defendants.
- ♦ Created a Special Victims team with a broad definition of “special victim” that recognizes such cases require unique approaches that mitigate the stress victims endure and ensure their privacy, as well as specialized legal knowledge and training.
- ♦ Designated a conference room as a private space for victims, witnesses and families.

This Six-Month Progress Report doesn’t just help us to understand the work we’ve done so far in 2019. It also serves as a means to hold ourselves accountable to Durham residents, their vision for a compassionate, safe, equitable community, and our commitment to furthering that vision. We are proud of the work we’ve done in these first six months, but there is much more to do and we will be looking to you for guidance and feedback.

Thank you for reading this report, and special thanks to the prosecutors, legal assistants, victim services coordinators, and support staff of the Durham County District Attorney’s Office for their hard work and dedication.



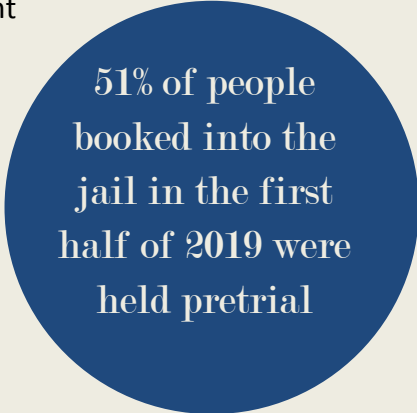
Satana Deberry
District Attorney
Prosecutorial District 16
Durham County

Stop Cash Bail Imprisonment & Address Jail Overcrowding

When it comes to deciding whether a person should be released from jail while awaiting trial, North Carolina statute instructs judicial officials to set the least restrictive release condition that will ensure the person appears in court, doesn't pose a danger to another person, and won't interfere with trial proceedings. Yet far too often the practice has been to impose secured money bonds with the guidance of a bond schedule that matches arbitrary dollar amounts to crimes. This creates a system in which people who have money can go free, while those who do not remain in jail — regardless of the danger they may or may not pose to our community.

Money bail drives mass incarceration and perpetuates racial disparities present throughout the criminal system. Over the past three decades, the use of cash bail and average bail amounts have risen. At the same time, pretrial detention has accounted for nearly all the growth in U.S. jail populations.

It is widely known that money bail disproportionately impacts people of color and low-wealth people. Those who are held pretrial are more likely to plead guilty, receive harsher sentences and — some research suggests — re-offend. Pretrial detention can quickly jeopardize a person's housing and employment with little or no public safety benefit in the long-run.

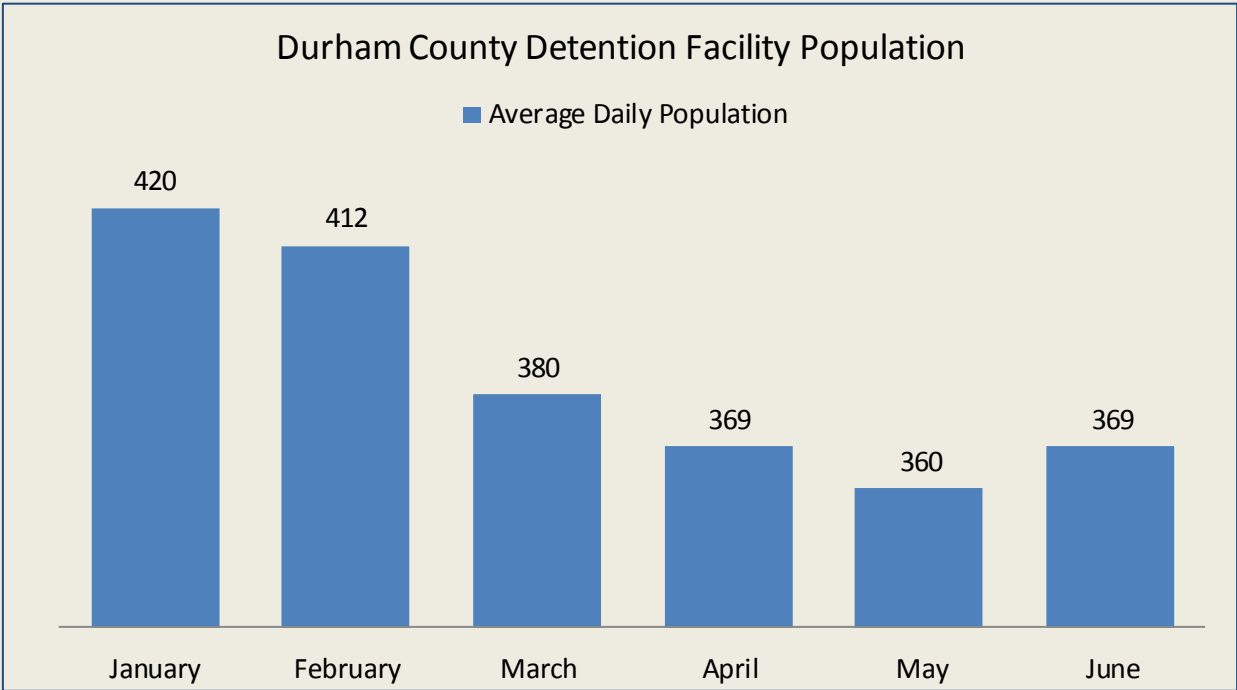


51% of people
booked into the
jail in the first
half of 2019 were
held pretrial

DA Deberry and members of her staff have toured the Durham County Detention Facility and seen firsthand the need to lower the jail population and limit the use of unnecessary pretrial incarceration.

For these reasons, the Durham County District Attorney's Office **implemented an internal pretrial release policy in February that disfavors pretrial detention and removes money from the equation to the extent possible under North Carolina law.** While prosecutors can and should consider each case individually, the policy establishes a presumption that people charged with non-violent offenses — including infractions, misdemeanors and low-level felonies, with an exception for domestic violence — should be released pretrial without monetary conditions. The policy guides what pretrial release conditions prosecutors should recommend to judges and magistrates, who then set the conditions. The policy was crafted by Assistant District Attorney Daniel Spiegel, who has previously spearheaded litigation regarding money bail and is the lead prosecutor over the Drug and Property Crimes team; Alyson Grine, the lead prosecutor for policy and training; and DA Deberry.

Scrutiny by the District Attorney’s Office of the use of money bail — along with efforts by the Public Defender’s Office and local law enforcement — has contributed to a **more than 12 percent decline in the jail population, saving taxpayers money and allowing for needed facility improvements**. With the cost to house a person at the jail totaling \$95 per day, that reduction amounts to \$4,845 per day in taxpayer savings.



Source: Durham County Sheriff’s Office Detention Services and Annual Report

The average length of stay at the jail during the first half of 2019 is down from previous years — 5.29 days compared to nineteen days four years ago — suggesting that when money bail is set, the amount is more attainable.

In addition to implementing the new pretrial release policy — and in turn shifting the culture of the Office to view pretrial incarceration as an exception, not the default — the DA’s Office has continued to **assign an attorney to be present at all first appearances at the jail**, assuring that bail is reviewed in a timely manner. The Office has also continued regular meetings with the Sheriff’s Office and other officials to **identify individuals being held on bonds of \$10,000 or less and determine at an early stage whether to recommend their release**. These reviews are identifying fewer people in light of new pretrial release practices.

Focus on the Crimes That Keep Us Unsafe

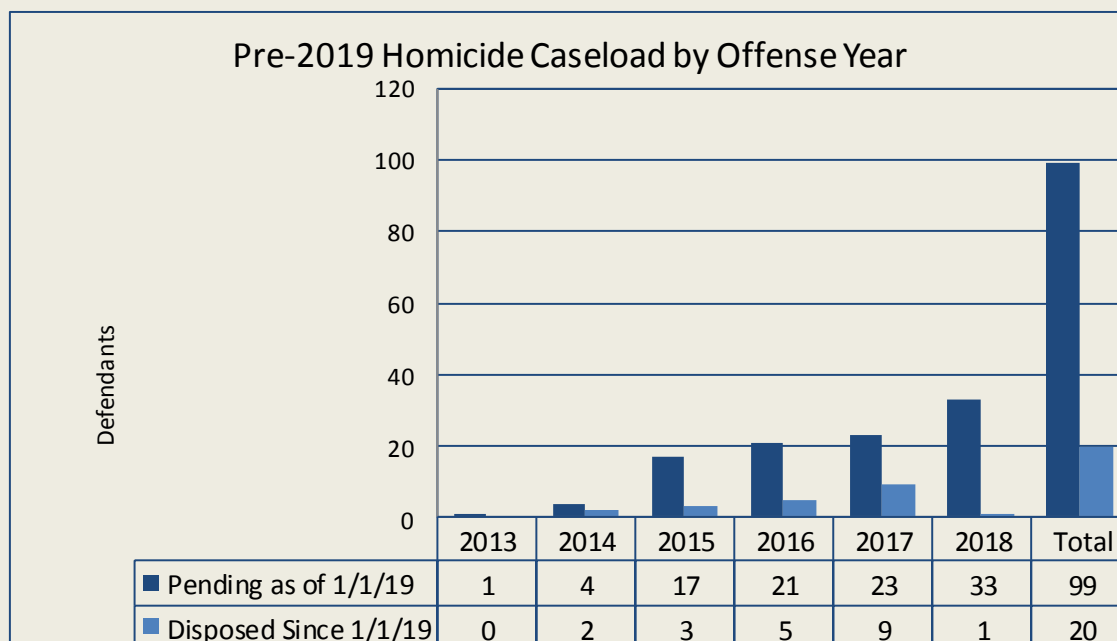
The Durham County District Attorney's Office prioritizes crimes in which a member of our community was harmed. DA Deberry makes an effort to **meet with the family of every Durham homicide victim**.

Immediately upon taking office, DA Deberry **reorganized the Office to create six new teams so that each case is handled by attorneys, legal assistants, and victim service coordinators who specialize in that subject matter**.

The teams are: Administration, Homicide and Violent Crimes, Special Victims, Drug and Property Crimes, Juvenile, and Traffic. Each team is headed by an experienced attorney who screens cases and supervises and supports members of the team.

The Homicide and Violent Crimes team is made up of five assistant district attorneys and headed by longtime federal prosecutor Michael C. Wallace Sr. Prioritizing cases in which victims and their families have waited the longest for resolution, the team has made progress in a backlog of nearly one hundred pending homicide cases.

In the first half of 2019, **22 homicide cases have been closed — 15 via guilty verdicts**. Six cases were dismissed by the District Attorney's Office due to insufficient evidence; a seventh was dismissed by the court. During the same time period in 2018, 15 homicide cases were disposed.



In June, the Office closed one of its oldest and most complex homicide cases – the 2015 murders of Yusor Abu-Salha, Razan Abu-Salha and Deah Barakat. The case had lingered for more than four years when DA Deberry reversed a previous decision and chose not to pursue the death penalty. A guilty plea was secured two months later and the defendant received three life sentences. DA Deberry and Assistant District Attorney Kendra Montgomery-Blinn called an expert to testify how implicit bias informed the killer’s motive — something that has rarely been done by prosecutors.

20% of pre-2019
homicide cases
have been resolved
in the first half of
the year

In an effort to reduce the backlog of pending homicide cases, the DA’s Office has referred twelve defendants to the Attorney General’s Office for prosecution.

These are cases in which the AG’s Office has special expertise in the evidence involved.

At the request of DA Deberry, **local law enforcement now consult the DA’s Office before filing homicide charges to ensure there is sufficient evidence to move forward.** This will prevent people from being charged when there is insufficient evidence of guilt and cases from lingering in the courts.

The DA’s Office is also working closely with law enforcement partners to combat human trafficking, sexual assault and domestic violence. Members of the DA’s Office work with police and victim advocates through a Sexual Assault Response Team, a Domestic Violence Response Team, and the Lethality Assessment Program, which tries to prevent domestic violence homicides by identifying individuals most at risk and connecting them to resources.

Members of the DA’s Office meet regularly with representatives from local and state law enforcement, victim advocacy organizations and the state massage board as part of a new Human Trafficking Task Force. As the Durham Police Department makes significant progress in testing a backlog of sexual assault evidence kits, the Special Victims team meets monthly with Durham police to review the results. Recently, **an arrest was made in an unsolved sexual assault dating back to 2016 as a result of efforts to work through the backlog of unsolved sexual assault cases.**

Focusing on the crimes that keep us unsafe also requires a recognition that court involvement isn’t always appropriate or helpful in cases where there was no physical harm or threat of physical harm. Under DA Deberry, assistant district attorneys are using their prosecutorial discretion to dismiss or divert low-level cases and those stemming from mental illness, poverty or substance use, like possessing small amounts of drugs and shoplifting.

The District Attorney’s Office continues to refer individuals to diversion programs like Mental Health Court and Drug Court. With the Durham Expunction and Restoration program, the Durham Innovation Team and local judges, the DA’s Office has **waived unpaid traffic fines and fees for 2,118 people who lost their licenses at least two years ago, putting them one step closer to becoming legal drivers again.** More than seventy-thousand cases, most of them traffic-related and tied to license suspensions, have also been dismissed by the Office since December 2018 via the Administrative Office of the Courts’ Data Integrity program.

In conjunction with the Innovation Team, the DA’s Office is working with the Urban Institute to study ways to reduce recidivism among young people who have had multiple contacts with the court system.

Address Racial Bias

& Reflect Community Values

Durham is a community that values racial equity, second chances, inclusion, and service to others. The Durham County District Attorney's Office is committed to upholding these same values.

The DA's Office is taking steps to address mass incarceration and racial disparities in the criminal legal system, for example by **diverting or dismissing low-level offenses that may result from cycles of over-policing and over-prosecuting communities of color.**

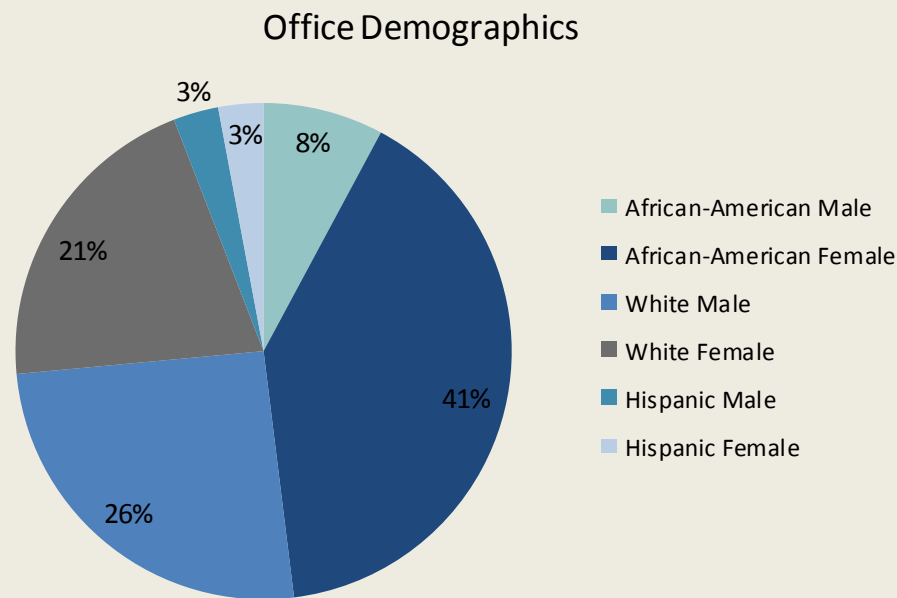
All prosecutors are **required to participate in monthly trainings to ensure the work of the DA's Office is being conducted in an equitable, ethical manner.** For example, in May, all staff were required to participate in training on racial bias in jury selection in order to gain a deeper understanding of how bias may affect the selection of jurors, and how excluding jurors of color has led to racially disparate case outcomes. Prior to this administration taking office, the leadership team worked with consultants to create and complete a racial equity course



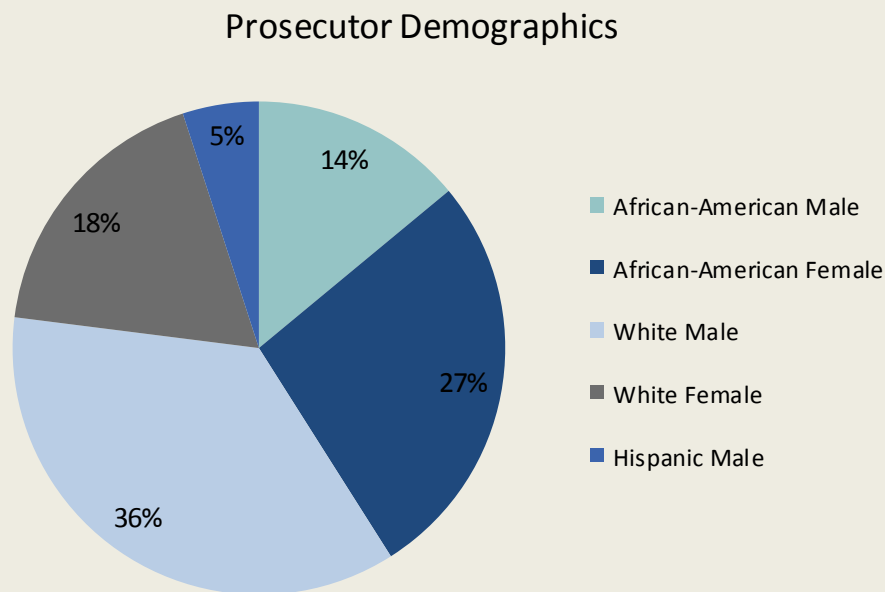
examining the intersection of structural racism and criminal justice. ADA Alyson Grine, team lead for policy and training, is co-author of *Raising Issues of Race in North Carolina Criminal Cases* and serves as liaison to the Durham Chapter of the Racial Equity Network.

The DA's Office has expanded its use of restorative justice practices, which bring victims and defendants together outside of court to promote healing, rather than punishment. Misdemeanor cases up to serious felonies are currently going through this victim-centered process, both pre-charge and post-charge. The Office is working to partner with more organizations in order to refer additional cases for restorative justice rather than a punitive model. This initiative is being led by SVU Team Lead Kendra Montgomery-Blinn, who previously handled a case recognized as the first felony to go through a formal restorative justice process in the state.

The Office itself reflects Durham’s diversity. Two-thirds of the Office’s 39 employees are women and one-third are men. About half are African-American, 46 percent are white and 2 percent are Hispanic.



African-American women comprise the second greatest percentage of the Office’s 22 prosecutors (27 percent), after white men (36 percent).



Protect & Support Our Children Together

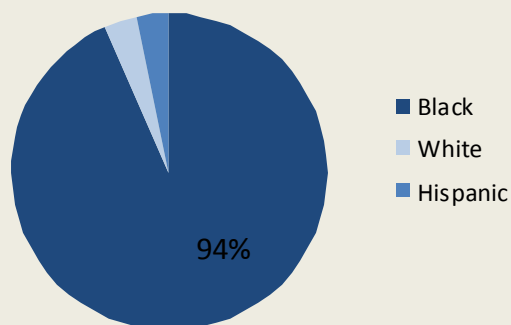
As part of the office re-organization initiated by DA Deberry, **a juvenile team was created to handle all cases involving individuals 18 and under — and in some cases, defendants in their early 20s.** This ensures that cases involving young people are assigned to staff familiar with the juvenile justice system, science regarding the juvenile brain, and the consequences of criminal justice involvement at a young age. In fact, the lead prosecutor for the juvenile team, Beth Hopkins Thomas, is a former teacher.

Currently, 16- and 17-year-olds are automatically prosecuted as adults in North Carolina. Beginning December 1, under a new law known as Raise the Age, 16- and 17-year-olds charged with misdemeanors and non-violent felonies will be addressed in the juvenile court system. Raise the Age also mandates a reduction in school-based referrals to court, a policy DA Deberry has vocally supported.

In anticipation of this law and in an effort to stem the school-to-prison pipeline that disproportionately impacts African-American students, the DA's Office has **stopped accepting court referrals for school-based incidents, with rare exceptions for serious crimes.** DA Deberry met with Durham Public Schools principals about this policy, and has continued conversations with the school system about how to create an equitable, supportive school environment as a member of the DPS Equity and Whole Child Advisory Committee.

As in adult court, children of color are more likely to be targeted through criminal prosecution. DA Deberry believes it is important to acknowledge and monitor this disparity, and is committed to addressing it through policy change and working with court and school officials.

Pending Juvenile Caseload by Race



The DA's Office has also **ended a previous practice of threatening criminal charges against the parents of students who miss school.** Previously, parents of children with ten or more unexcused absences in a school year received a letter from the District Attorney stating that if a court finds the parent violated statute on school attendance, he or she could face a fine, prison, or both. These unnecessary truancy letters were a poor use of court resources and put families experiencing hardship at risk without remedying their situation.

Build Stronger Relationships Between Residents & the Justice System

In the 2018 Durham Resident Survey, just 41 percent of respondents said they were satisfied with the local courts. Too often members of the public feel that they have no voice in the criminal justice system, or that they aren't given opportunities to fully understand how it works.

To that end, DA Deberry has **created two positions to promote accountability, transparency, and relationship building between the public and the justice system.**

As deputy chief of legal and community affairs, Brenda Ford Harding serves as a liaison to both law enforcement and community groups, ensuring the DA's Office remains attuned to the needs and priorities of Durham residents.

Sarah Willets serves as communication specialist. Only one other District Attorney's Office in the state has a position dedicated to sharing public information and fostering understanding of prosecutorial responsibilities and policies through the media.



The DA's Office has also expanded its social media presence to keep the public informed and share information about the work DA's Office staff do in and out of the courthouse.

This year, DA Deberry has participated in dozens of forums and events with organizations including Durham Congregations in Action, the Youth Justice Project, the Durham Committee on the Affairs of Black People and North Carolina Central University. Attorneys and administrators in the Office have visited Durham schools to speak to students about the DA's Office, the legal profession and the courts.

The DA's Office wants to ensure that all residents of Durham feel safe and comfortable interacting with the justice system, regardless of citizenship status. DA Deberry has **publicly opposed House Bill 370**, which would force elected sheriffs to comply with detention orders from Immigration and Customs Enforcement that are not based on probable cause. The Office is monitoring a recent trend of crimes, especially robberies, targeting Latinx Durham residents.

In the first six months of 2019, the DA's Office has **approved 104 applications for U-Visas** — reserved for undocumented immigrants who are the victims of a crime — allowing those individuals who assist law enforcement in investigating crimes to seek relief from deportation.

DA Deberry has participated in 50+ community events since taking office

DA's Office personnel frequently work outside the courthouse to make our community safer and more just; the many affiliations our leadership and ADA's hold with Durham organizations are listed at the end of this report.

In particular, members of the Traffic Team volunteer their time to promote safe driving. In May, they participated in the Mothers Against Drunk Driving walk, raising \$9,200 to support the organization and winning trophies for largest team and most money raised in their category.

In the first half of 2019, Traffic ADAs spoke at six monthly Right Choice highway safety courses. Under DA Deberry, they have also begun participating in StreetSafe, which takes young drivers through classroom instruction and a driving course, attending three classes. Prosecutors support law enforcement at DWI checking stations and the scenes of serious and fatal crashes.

Dale Morrill, lead prosecutor for the Traffic team and the National Highway Traffic Safety Administration 2018

Prosecutor of the Year, recently nominated the Durham Police Department Traffic and Collision (TACT) Team for an award from Crash Prevention Network and MADD. DPD's TACT Team received the award in June for their dedication to duty, team effort, and commitment to our community and reconstructing lives.

The Office works closely with the Durham Police Department, the Durham County Sheriff's Office and other law enforcement partners. Promoting trust in the justice system also requires holding law enforcement accountable. The DA's Office has created a committee to uphold its constitutional obligations to disclose evidence that is favorable to defendants, including evidence that may be used to impeach witnesses for the state, such as certain misconduct by police officers.



Prioritize the Needs of Victims & Survivors

Violent crimes and the people they leave behind are of the highest importance to the DA's Office. **The newly created Special Victims team has adopted a broad definition of "special victim" cases — all inter-home or inter-relationship offenses, sexual assaults, child abuse cases, animal abuse cases and any offense in which the victim was targeted based on race, sexual orientation, religion or gender.**

This broader definition recognizes that all of these cases require unique approaches that mitigate the stress victims endure and ensure their privacy as well as specialized legal knowledge and training.

In addition to meeting one-on-one with the families of Durham homicide victims, the DA's Office also works with the Religious Coalition for a Nonviolent Durham to help families of crime victims navigate the court system. SVU Team Lead Kendra Montgomery-Blinn presented information about the court process at an RCND dinner in June.

The Special Victims Unit is the largest team in the office, with 10 members



The DA's Office recognizes that the court system is set up not for victims, but rather to safeguard the rights of the accused. Victim service coordinators on each legal team walk victims through the court process and their rights under the law.

New this year, the DA's Office has **designated a conference room as a private space for victims, witnesses and families.** It is currently stocked with toys, a fridge and beverages, and the Office is working to add more items to ensure victims are comfortable during court proceedings.

Durham County District Attorney's Office

Satana Deberry, District Attorney

Michael C. Wallace Sr.

Lead ADA, Homicide and Violent Crimes

Luke Bumm

ADA, Homicide and Violent Crimes

Youth basketball coach, YMCA

Assistant coach, South Durham Little League

Guest speaker, Duke Law School

Elder and past chair, Personnel and Stewardship Committees, Westminster Presbyterian Church

Ray Griffis

ADA, Homicide and Violent Crimes

Alyson Grine

ADA, Homicide and Violent Crimes

Lead ADA, Policy and Training

Liaison, NC Racial Equity Network Durham Chapter

Brittany Whidbee

ADA, Homicide and Violent Crimes

Beth Hopkins Thomas

Lead ADA, Juvenile

Patricia Flood

ADA, Juvenile

Member, Juvenile Crime Prevention Council

Member, Community Child Protection Team

Member, Child Fatality Prevention Team

Daniel Spiegel

Lead ADA, Drugs and Property

Organist/choir accompanist, Pilgrim United Church of Christ

Alex Herskowitz

ADA, Drugs and Property

Sammy Said

ADA, Drugs and Property

Adam Williamson

ADA, Drugs and Property

Past chair-elect, Durham County Bar Association Young Lawyers Division

Member-at-large, PAC 3

Josh Sotomayor

ADA, Drugs and Property

Jail Court attorney

Ahmed Adam

ADA, Drugs and Property

Kendra Montgomery-Blinn

Lead ADA, Special Victims

Member, past board member and past Education Committee co-chair, People's Alliance

Member, Parents of African American Children

Guest speaker, Duke Law School

Monica Burnette

ADA, Special Victims

Co-chair, Durham Alumnae Delta Sigma Theta Sorority, Inc. Delta GEMS/ Delta Academy

Erika Johnson

ADA, Special Victims

DA's Office liaison, Family Justice Center

Ameshia Cooper

ADA, Special Victims

Member, Durham County Bar Association Grievance Committee

Member, Rebound Alternatives for Youth Board of Directors

Member, Junior Leadership Durham Board of Directors Board of Directors

Fellow, New Leaders Council

DA's Office liaison, Family Justice Center

Lindsey Spain

ADA, Special Victims

Member, 16th Judicial District Bar and Durham County Bar Association Board of Directors

Founder, DCBA's Annual charity 5K

Pianist, Mt. Sylvan United Methodist Church

Dale Morrill

Lead ADA, Traffic

Speaker, Right Choice and StreetSafe

Member, Durham Expunction and Restoration Advisory Board

Stephen McLaughlin

ADA, Traffic

Speaker, Right Choice and StreetSafe

Austin Braxton

ADA, Traffic

Durham County District Attorney's Office

Michelle Cofield

Deputy Chief of Staff

Brenda Ford Harding

Deputy Chief of Legal and Community Affairs

Member, Durham Business and Professional Chain

Member, Durham Committee on the Affairs of Black People

Member, People's Alliance

James Barr

Investigator

Jennifer McDade

Screeener

Tracie Greene

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Gloria Alexander

Grand Jury Clerk

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Victim Services Coordinator, Homicide and Violent Crimes

Chris Foust

Legal Assistant, Homicide and Violent Crimes

Leo Jimenez

Legal Assistant, Homicide and Violent Crimes

Brittany Connor

Victim Services Coordinator, Juvenile

Jolena Tinnin

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Amanda Gardner

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